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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/780,049

02/17/2004

Sergio R. Mohedas

1856-40100 (9952.0-02)

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7590

08/16/2007

ConocoPhillips Company - I. P. Legal

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EXAMINER

LAO, MARIALOUISA

ART UNIT

PAPER NUMBER

1621

MAIL DATE

DELIVERY MODE

08/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/780,049

Applicant(s)

MOHEDAS ET AL.

Examiner

M. Louisa Lao

Art Unit

1621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: ____. |

Continuation of Attachment(s) 3. Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date
:02/17/2004,07/28/2004,06/13/2005,09/08/2005,06/30/2006 .

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. **Claims 1-52 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Wright et al. (US6962947, US'947) in view of Mitchell et al. (US5283216, US'216).

Applicant Claims

5. The instant claims are drawn to a method of making a catalyst for use in a hydrocarbon synthesis reactor, comprising a reduction of a catalyst, mixing with a stripped hydrocarbon to form a catalyst slurry, wherein the stripped hydrocarbon is substantially free of dissolved oxygen and contacting a reactant syngas (hydrogen and carbon monoxide) under conversion promoting conditions to convert to at least a portion of the reactant gas to hydrocarbons. The catalyst metal

Art Unit: 1621

comprises at least one catalytic metal selected from the group consisting of metals from Groups 8, 9, 10 of the Periodic Table. The catalyst further comprises a support and a promoter, and a particle size between about 30μ and about 150μ . The reducing gas comprises, *inter alia*, hydrogen which has a volumetric flow rate between about $0.1\text{m}^3/\text{hr/kg}$ catalyst and about $10\text{m}^3/\text{hr/kg}$ catalyst, a temperature between about 200°C and about 500°C , at a pressure between about 0.1 psig and about 50 psig, reduction vessel is selected from the group consisting of, *inter alia*, fluidized bed, which comprises a gas recycle loop that allows the reducing gas to be recycled back to the reduction vessel.

Determination of the Scope and Content of the Prior Art
(MPEP §2141.01)

6. US'947 teaches the regeneration of a catalyst used in the process for synthesizing hydrocarbons. In columns 7 (lines 13-67), 8 (lines 3-37, 65-67), 9 (lines 43-44), 10 (lines 5-9, 50-51, 54-59), column 12 Example 2 (line 53), US'947 teaches the metal catalyst can have promoters, supports and can be reduced to the zero-valent state via reduction using hydrogen gas where regeneration is at a temperature in the range of from about 75°C and about 500°C , at a pressure of about 50 psig to about 350 psig.

7. US'216, on the other hand, is relied upon to show (see Abstract) the rejuvenation of hydrocarbon synthesis catalysts, by treating the catalysts in the presence of liquid hydrocarbons, preferably *slurry hydrocarbons*, with hydrogen at elevated temperatures and pressures.. In column 4, lines 20-25 and 42-45, US'216 teaches the catalyst preparation may be accomplished by a variety of techniques, and the hydrogen treatment disclosed addresses an improved activity of the hydrocarbon synthesis catalyst however, it is prepared. And the catalyst subjected to the

Art Unit: 1621

slurry phase hydrogen treatment taught by US`216 is one that “has already been reduced by conventional means, and not previously used in a hydrocarbon synthesis”. In column 4 Examples lines 50-69 bridging to column 5 lines 1-18, US`216 teaches that in a continuous process, the rejuvenation of the reversibly deactivated catalyst can be effectuated with the use of a hydrogen or hydrogen-containing gas at about 300°C to about 500°C. In column 5 Example 1, the catalyst particle size taught by US`216 is 10-90μ in a hydrocarbon slurry operation, where hydrogen treatment was used to rejuvenate the catalyst, effectuating to complete catalyst recovery.

***Ascertainment of the Difference
Between Scope of the Prior Art and the Claims
(MPEP §2141.012)***

8. US`947 and US`216 differ from instant claims in their silence in the stepwise addition of the reducing gas to the catalyst and subsequent addition of the hydrocarbon liquid slurry with the reduced catalyst and the step contact with the syngas. Neither of the cited prior art references teaches the stripping gas used for and its contact with the hydrocarbon slurry.

***Finding of Prima Facie Obviousness Rational and Motivation
(MPEP §2142-2143)***

9. At the time of the invention, one of ordinary skill in the art looking to improve on improving the functionality of the catalyst used in a hydrocarbon synthesis reactor, would have found it *prima facie* obvious to start with the teachings of the cited prior art references and couple said teachings a stripping step, to make applicants' process using their methodology, the, reaction specifics and parameters, thereto. The combination of the teachings of the cited prior art suggests that specific features of their invention, illustratively the “preparation of a more potent catalyst with the use of a reducing gas” may be combined with other features in accordance with the invention, such as the stripped hydrocarbon liquid mixed with the catalyst to further alleviate

Art Unit: 1621

the levels or possibilities of oxidation that cause the deterioration of the catalyst activity. And alternatively embodiments will be recognized by those skilled in the art and are intended to be included within the scope of the claims. Therefore, it would have been obvious to modify the combined cited prior art processes, such as by alleviating further sources of oxidation, since one of ordinary skill in the art at the time of the invention, as compelled by the norms of practice, would endeavor to develop a process to maintain or retrieve, as would-have-been-unused, the activity of a catalyst used for hydrocarbon synthesis reactors, with a reasonable expectation of success.

10. The recitation of stepwise additions, the use of different types of vessels, enumerating different types of catalysts and hydrocarbon liquids are optimization steps that are within the normal undertaking of one of ordinary skill in the art at the time of the invention and would not require any inordinate degree of experimentation.

11. Optimizing such processes is *prima facie* obvious because an ordinary artisan would be motivated to use known processes from the art to make the process more efficient or explore economical advantages over the other. Merely modifying the process conditions is not a patentable modification absent a showing of criticality. In re Aller, 220 F.2d 454, 105 U.S.P.Q. 233 (C.C.P.A. 1955).

12. Further, the examiner takes the stand that method of making a catalyst for use in a hydrocarbon synthesis reactor, is given, as per the guidelines of the MPEP, its broadest reasonable interpretation in light of the disclosures in the instant specification, to encompass the process of rejuvenating a catalyst for use in a hydrocarbon synthesis reactor.

13. Thus, the combined teachings of the cited prior art references fairly suggest the *prima facie* obviousness of the instant claims.

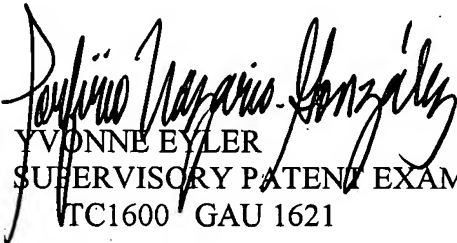
14. No claims are allowed.

Art Unit: 1621

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MLouisa Lao whose telephone number is 571-272-9930. The examiner can normally be reached on Mondays to Thursdays from 8:00am to 8:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler can be reached on 571-272-0871. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

`ml108132007
MLouisa Lao
Examiner
Art Unit 1621

for 
YVONNE EYLER
SUPERVISORY PATENT EXAMINER
TC1600 GAU 1621